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Meeting of the Cabinet

Tuesday, 18 May 2010 at 2.00 pm

County Hall, Oxford, OX11ND

ADDENDA

4. Questions from County Councillors (Pages 1 - 2)

Questions from Councillor Fooks.

5. Petitions and Public Address (Pages 3 - 4)

6. Consultation on The Secretary of State's Proposed Changes to South East Plan Policy M3 (Primary Aggregates Provision and Apportionment)

Additional point proposed as set out in bold below:

The Cabinet is RECOMMENDED to:

- (a) *agree the following response to the consultation by the Government Office for the South East on the Secretary of State's Proposed Changes to Regional Spatial Strategy for the South East (South East Plan) Policy M3 – Primary land-won aggregates and sub-regional apportionment:*
 - (i) *the County Council objects to the proposed changes to the sand and gravel figures in Policy M3, particularly the regional figure of 11.12 million tonnes a year and the Oxfordshire figure of 2.10 million tonnes a year, for the reasons set out in paragraph 20 of this report;*
 - (ii) ***the County Council believes that, in the light of the proposed reduction in the regional sand and gravel figure, the Oxfordshire apportionment should be reduced from the current level of 1.82 million tonnes a year; the County Council supported the lower figure of 1.58 million tonnes a year for Oxfordshire proposed by SEERA in March 2009.***
 - (iii) *the County Council supports the proposed changes to the*

crushed rock figures in Policy M3;

- (iv)** *the County Council supports the other proposed changes to the wording of Policy M3, in particular the inclusion of a statement that apportionments will be subject to testing of deliverability in the preparation of MWDFs;*
- (b)** *authorise the Head of Sustainable Development, in consultation with the Cabinet Member for Growth and Infrastructure, to submit a response to the consultation based on this report.*

8. Forward Plan and Future Business (Pages 5 - 6)

URGENT BUSINESS – PLANNING OBLIGATION NON-PAYMENT OF CONTRIBUTION (Pages 7 – 8)

Cabinet Member: Finance & Property

Forward Plan Ref: 2010/090

Contact: Howard Cox, Team Leader – Developer Funding Tel: (01865) 810436

Report by Assistant Chief Executive & Chief Finance Officer and Head of Sustainable Development

In accordance with Regulation 16 of the The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (as amended), the Chairman of the Strategy & Partnerships Scrutiny Committee (since this is a finance related item) has agreed that the need to take the decision is urgent and cannot reasonably be deferred.

The report seeks approval to write off a S106 contribution.

The Cabinet is RECOMMENDED to:

- (a)** *write off the debt of £74,667.09 in connection with this planning obligation;*
- (b)** *request confirmation of the write off in the next financial monitoring report to the Cabinet.*

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ITEM 4 – QUESTIONS FROM COUNTY COUNCILLORS

Questions received from the following Members:

1. Question to Councillor Robertson from Councillor Fooks

There is still a problem with the new phone system in County Hall. I rang the main County Council number, 792422, the other day and the phone just rang and rang – then cut off, with no message or opportunity to leave a message. I was told that this is happening to other people too. Could the Cabinet member follow this up, as it is extremely poor customer service?

2. Question to Councillor Waine from Councillor Fooks

“The most recent Admissions figures for September 2010 show that the County Council is very short of reception class places, particularly in the city of Oxford. It is very clear that new school places will be needed for September 2011 and the currently planned increases look to be inadequate. If the bulge is repeated in subsequent years, which looks extremely likely, more places are going to be needed right through the primary schools, putting huge pressure on existing schools and causing huge problems for parents.

What plans are being developed to meet this growing school population? The review of the city catchment areas is urgently needed as well as provision of new places, probably new schools, across the county. When will the review take place and when could it be implemented? Where does the cabinet member hope to be able to provide new school places throughout the primary phase?”

Answer

- Through the strenuous efforts of officers, working very closely with headteachers and governors, it has been possible, once again, to ensure that every child whose parents have requested a school place has been offered one; the overwhelming majority (c.90%) have received the offer of a place at their first preference school. This has required a number of tough decisions but I am committed to ensuring that the Council continues to meet its statutory duty to ensure an overall sufficiency of school places.
- It is indeed the case that if you add up all the Published Admission Numbers of our schools there was a shortfall of places for Reception age pupils, but for September 2010 we have managed to create an additional 530 or so places. This has been achieved through a combination of installing temporary classrooms (as a precursor to permanent buildings), bringing classrooms back into use as teaching spaces, and schools being flexible about how they group children. In Oxford (and immediate vicinity) alone 220 places have been created.

- Population forecasts suggest that the current levels of demand will continue for the next 2 - 3 years to be followed by a slow decline, reaching pre-2008 levels within about a decade.
- Schools which can be adapted/expanded to accommodate larger intakes on a permanent basis have been identified and schemes to deliver additional classrooms are at various stages of development; some have already been subject to the necessary statutory expansion consultations. Headteachers and governors of schools which may have the potential for permanent expansion, but which have yet to agree to this, will be approached in order to further increase the number of additional school places that can be created.
- Where there are to be substantial new housing developments we will take the opportunity either to create brand new schools or secure funding to expand local schools; the Council's developer contribution team is working hard to secure funding from developers (S.106 contributions).
- Changes to catchment areas obviously don't create any additional school places but they can help to better match 'supply and demand' and help parents to reach an informed view about the likelihood of obtaining a place at their preferred school. Preparatory work for a review of Oxford catchment areas will be undertaken during the summer in order that any possible changes can be subject to the fullest consultation in the autumn/winter as part of the annual statutory consultation on school admission arrangements. The earliest that catchment area changes (other than those already subject to consultation such as that for Wolvercote School) can be implemented is for September 2012 admissions.
- As far as it is possible so to do, additional primary school places will be created close to where the additional children live as part of our 'Primary Strategy for Change' commitment to creating an 'outstanding school at the heart of the community'.

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ITEM 5 – PETITIONS AND PUBLIC ADDRESS

Public Address

The Leader of the Council has agreed the following requests to address the meeting:-

Item	Speaker
Item 6 - South East Plan: The Secretary Of State's Proposed Changes to Policy M3 Primary Land-Won Aggregates and Sub-Regional Apportionment, March 2010	Cllr Purse (Shadow Cabinet Member for Growth & Infrastructure)) Cllr Mathew Cllr Lindsay-Gale Julie Hankey - Oxfordshire Upper Thames Residents Against Gravel Extraction (OUTRAGE) John Taylor - Parishes Against Gravel Extraction (PAGE) David Scott - Burcott and Clifton Hamden protection of river Thames (BaCHporT)
Item 7 – Establishment Review	Councillor Fooks (Deputy Leader of the Opposition)

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ITEM 17 – FORWARD PLAN AND FUTURE BUSINESS

Members are asked to note the following amendments to the Forward Plan:

Portfolio Decision by...	Topic (Ref) & Decision	Present Timing	Change
Schools Improvement <i>Cabinet</i>	Expansion of Sandhills Primary School (2010/021) To consider the expansion of Sandhills Primary School and approve issue of statutory notice if objections received.	22 June 2010	Item deferred to 20 July 2010
Transport <i>Cabinet Member</i>	Oxford Central Area CPZ – Minor Amendments (2009/207) To agree minor amendments to the central Oxford parking scheme.	3 June 2010	Item deferred to 2 September 2010
Transport <i>Cabinet Member</i>	Oxford – Barracks Lane, Cowley – Proposed Parking Restrictions (2008/194) To consider responses to a consultation on the introduction of parking restrictions on parts of Barracks Lane as a result of development.	3 June 2010	Item deferred to 2 September 2010
Transport <i>Cabinet Member</i>	Oxford – Cowley Marsh Area – Parking Restrictions (2009/210) To consider amendment to the Cowley Marsh area parking restrictions	3 June 2010	Item deferred to 7 October 2010

Members are asked to note the following new items to the Forward Plan:

Portfolio Decision by...	Topic Decision	Timing	Report by... Contact
Deputy Leader <i>Cabinet</i>	<p>Request for Exemption from Tendering under Contract Procedure Rules (2010/085)</p> <p>To seek approval for Exemption from tendering for contracts for the 2010/11 and separately, 2011/12 academic years, for seven 16-19 year old education contracts passed to the Council from the former Learning & Skills Council (LSC) as part of the Council's new statutory responsibility for 14-19 year olds.</p>	22 June 2010	<p>Director for Children, Young People & Families</p> <p><i>Sarah Cullimore, 16-19 Education Service Manager Tel: (01865) 328089, Sandra Higgs, Strategic Leader, 14-19 Oxfordshire Tel: (01865) 328546</i></p>
Growth & Infrastructure <i>Cabinet</i>	<p>Homes & Communities Agency Single Conversation: Local Investment Agreement (2010/086)</p> <p>To consider the proposed Local Investment Agreement between the Homes & Communities Agency and the Oxfordshire Spatial Planning and Infrastructure Partnership and its constituent councils.</p>	22 June 2010	<p>Head of Sustainable Development</p> <p><i>Ian Walker, Spatial Planning Manager Tel: (01865) 815588</i></p>

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PLANNING OBLIGATION – NON PAYMENT OF CONTRIBUTION

Report by the Assistant Chief Executive & Chief Finance Officer and the Head of Sustainable Development

Introduction

1. This report sets out the circumstances around the non-compliance by a developer of the terms of a S106 planning obligation within Oxford and the proposed action following that non-compliance. The content of this report would normally form part of the financial monitoring report to the Cabinet but given that the next such report is not until June's meeting it is considered appropriate to report separately and urgently because the item is of local community concern and an assurance was given to local residents that the matter would be dealt with at the May meeting.

Background and Key Issues

2. A planning Obligation (S106 agreement) was entered into in May 2003 in relation to a housing proposal (02/02152/FUL) for 13 dwellings at Latimer Road, Headington, Oxford a development now known as "The Brambles". The S106 secured payment (prior to commencement of the development) to the County Council of £40,000 towards various transport measures. The S106 was entered in to by both the City and County Councils however the only payment was to be to the County Council. The S106 was promptly entered on to the land charges register at the City Council as formal notice to buyers of the property since by virtue of S106 Town and Country Planning Act 1980 S106 obligations are inherited by successor landowners.
3. The applicant and owner under the S106, are obliged to notify both local authorities of any disposal of the site and of commencement of development. In February 2004 Kensington (Headington) Ltd (KHL) became the owner and responsible for the S106 obligations. The planning permission was subsequently implemented however neither the City nor County Council has a record of having received any of the notifications required under the agreement.
4. In August 2009 the County Council became aware, (via a prospective buyer of one of the properties) that the planning permission had been implemented (site had been developed) and thus that the requirement for payment to the County Council the £40,000 plus indexation had been triggered. Because the payment (if made) would have been late an additional late payment fee was levied, in accordance with the terms of the S106 planning obligation. The total due amounts to £54,694.38 plus a late payment fee of £19,972.71.
5. Following non-payment of the invoice, debt recovery proceedings commenced however given that the company (KHL) had ceased trading and its assets were nil it was considered uneconomical (and indeed worthless) to pursue further through the courts. In February 2010 proceedings via the court were withdrawn.

6. Following the non-payment of the debt under the planning obligation the debt would pass to the successors in title of the land i.e. the individual house and flat owners. The County Council could pursue each of the owners at the development. However, it is considered in this case inappropriate to pursue such debt recovery because of the time which has elapsed since the defaults of initial notice of commencement of development and subsequent payment of the contribution and that both were a result of the inaction of parties other than the current individual owners. Applying practice recommended by the Department of Communities and Local Government and the Law Society (as set out in the model form of planning obligation issued by them jointly) individual owners are released from liability under planning obligations and currently the County Council follows this practice but only where payment is triggered by commencement of development.
7. It is therefore recommended that the debt be written off and the amount charged against the provision for bad debts

Financial and Staff Implications

8. Cancellation of the debt would reduce the cumulative funding available to undertake necessary transport measures within Headington. However, other developer contributions within the Headington area have been set aside to be available to deliver works associated with transport needs within the Highfield area of Headington, within which the Brambles development is located.
9. Improved procedures have been put in place to minimise similar occurrences of non-compliance (notifications and non-payment) in respect of S106 planning obligations.

RECOMMENDATION

10. **The Cabinet is RECOMMENDED to:**
 - (a) **write off the debt of £74,667.09 in connection with this planning obligation;**
 - (b) **request confirmation of the write off in the next financial monitoring report to the Cabinet.**

CHRIS COUSINS
Head of Sustainable Development

SUE SCANE
Assistant Chief Executive & Chief Finance Officer

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May 2010